

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NATIONAL CHICKEN COUNCIL, *et al.*,

Plaintiffs,

VS.

BROOKE ROLLINS, in her official capacity
as SECRETARY OF AGRICULTURE, *et al.*,

Defendants,

and

RANCHERS CATTLEMEN ACTION
LEGAL FUND UNITED STOCKGROWERS
OF AMERICA, WESTERN
ORGANIZATION OF RESOURCE
COUNCILS, ALABAMA CONTRACT
POULTRY GROWERS ASSOCIATION,
AND LATINO FARMERS AND
RANCHERS INTERNATIONAL,

Proposed Defendant-Intervenors.

[illegible]

No. 4:24-cv-03786

Judge Andrew Hanen

DECLARATION OF JONATHAN BUTTRAM

I, JONATHAN BUTTRAM, am over the age of 18, have personal knowledge of the facts set forth herein, and, if called as a witness, could and would competently testify to the following:

1. I am the President of the Alabama Contract Poultry Growers Association (the “Association”). I have held this position since 2007. I’ve been a member of the Association and have served on its Board of Directors since 2002.

2. I make this declaration in support of the Association’s and other Farmer and Rancher Organizations’ motion to intervene in this case, which challenges the United States Department of Agriculture’s (“USDA”) Final Rule issued March 6, 2024, entitled “Inclusive Competition and Market Integrity Under the Packers and Stockyard Act” (the “Rule”).

3. The Association is a membership-based, 501(c)(5) tax-exempt Agricultural Marketing Association organized under the laws of the state of Alabama. We are located in Geraldine, Alabama.

4. The Association was founded in 1992 by 30 poultry growers who banded together in the hopes of securing better treatment and fairer contracts with the chicken companies. The Association’s mission is to make the poultry industry stronger, more efficient, and more economical by representing the interests of poultry producers throughout the state. We provide certain benefits to our members, including discounted rates for the propane that growers need to power their poultry operations. In the past, we have also advised members on contract negotiation and enforcement of their rights.

5. We no longer work with individual growers on their contracts, however, because of the intense retaliation they’ve experienced just for being part of the Association. The founding members were destroyed by the chicken companies, who took away their contracts because of their attempt to organize. Leaders of the Association have been consistently retaliated against over the years by, for example, losing their contracts as soon as they agreed to fill a Board of Directors position with the Association, which is why we no longer ask active poultry growers to

serve on the Board, only former growers like me who aren't as exposed to retaliation. These relentless attacks on the Association have succeeded in whittling down its membership. While we once were 800 members strong, the Association now represents 347 voluntary, dues-paying, voting members, all of whom are active poultry growers. To keep their contracts, our members must keep the fact that they are part of the Association secret from the companies they work for.

6. In addition to the gas cooperative we run on behalf of our members, the main way we now represent their interests is by speaking out publicly about the abuse that contract poultry growers suffer, and advocating for better treatment. On behalf of the Association, I meet with lawmakers in Washington D.C. about securing stronger protections for chicken growers. I have brought a lawsuit challenging USDA's rescission of protective Packers and Stockyard Act regulations that benefited our membership. *Lawsuit Challenges Cancellation of Farmer Fair Practice Rule*, FOX NEWS (Dec. 14, 2017), <https://www.foxbusiness.com/markets/lawsuit-challenges-cancellation-of-farmer-fair-practice-rule>. I also appeared in the documentary *Supersize Me 2: Holy Chicken!* to raise public awareness about our situation. This business is so hard on growers, who are constantly teetering on the edge of financial ruin, that I've also run a suicide hotline in the past to try and help our members and others manage the financial, emotional, and mental pressure they're under.

7. The poultry industry is dominated by just a few powerful chicken companies, including Koch Foods, Wayne Sanderson, Tyson, and Pilgrim's Pride, all of which operate in Alabama. They have set up a system where the companies own all of the assets—the chickens, the feed, the medicine, and the processing equipment—and the growers contracted to raise their chickens own all of the debt and financial risk.

8. Before a grower can work with a chicken company, they must first take out hundreds of thousands or even millions of dollars in loans to build poultry barns that meet the company's exact specifications. The chicken companies often demand growers make expensive and unnecessary upgrades to their operations after this initial investment, which burdens them with even more debt.

9. To pay off these loans, growers work on "take it or leave it" contracts that company representatives pressure them to sign on the spot. I've come to learn that these contracts are not worth the paper they're written on. These are flock-to-flock contracts—meaning they only cover a single flock of chickens at a time—which the chicken company is under no obligation to renew, providing no guarantee of regular or continuing income. The contract dictates how poultry growers are paid, through a "tournament" ranking system where a grower's pay is determined by how well he or she performs against other growers. Growers that are able to raise birds most efficiently (i.e., grow the biggest birds with the inputs they're given) receive bonuses on top of a base rate, while growers that don't perform as well get their pay docked below the base rate.

10. The chicken companies use a data analytics system called Agri Stats to share information about grower pay and suppress grower pay rates all over the country. *Justice Department Sues Agri Stats for Operating Extensive Information Exchanges Among Meat Processors*, DEPARTMENT OF JUSTICE (Sep. 28, 2023), <https://www.justice.gov/archives/opa/pr/justice-department-sues-agri-stats-operating-extensive-information-exchanges-among-meat>.

11. As a former chicken grower of over 45 years, who has raised approximately 50 million chickens in my career, I know firsthand how chicken companies manipulate this contract

system to their advantage and routinely subject growers to unfair, deceptive, and retaliatory practices. Before the chicken companies stopped contracting with me in 2016 for being too outspoken, I was a regular victim of their abuse. A field representative once described my relationship with the company in this way: “If I say jump, you say how high.” In other words, you are at the mercy of the company and if you do or say anything that they dislike, they’ll make you pay for it.

12. Chicken companies often retaliate against growers by withholding a flock placement from them. For example, I experienced this once for having the nerve to “talk back” to a company representative. The field representative came out to my family’s farm and started messing with the controls on our poultry house ventilation system. Field representatives have done this to me in the past, on one occasion causing me to lose two flocks of chickens because they ended up shorting out my electricity. The company wouldn’t admit it was their fault and I ended up losing \$40,000 on my dead flocks. That experience ultimately forced me to shut those farms down because we couldn’t afford any more losses. With that memory weighing on me, I told the representative to stop changing my ventilation settings and asked him to leave. He then threatened me by saying “they’ll never give you another flock.” After that, Koch Foods—the company my family was contracting with at the time—withheld a flock from us for 8 weeks. Withholding a flock for that long would bankrupt most growers—they wouldn’t be able to pay for groceries much less make their loan payments. The only reason I was able to hang on was because I had done my own upgrades to my chicken houses, so didn’t have the same kind of debt that most growers have.

13. The chicken companies can also manipulate the ranking system itself in a number of ways to ensure that the growers they dislike end up on the bottom. For instance, the chicken

company is responsible for delivering chicks to the growers, and the quality of the chick is an important factor in determining the final weight of the bird. Laying hens that are less than 25 weeks old have small chicks that don't grow well, and chicks coming from older hens also perform worse. The chicken companies use this disparity in chick quality to favor or punish growers as they see fit by giving the best chicks to their favored growers. I am also aware of situations in which chicks have died while in route to the grower from overheating in the delivery truck. When this has happened, the company instructed the driver to deliver them anyway and blame the deaths on the grower.

14. The chicken companies can also hurt your place in the tournament rankings by interfering with feed deliveries. Just a few days ago I saw two giant piles of chicken feed dumped along the side of the road. I've also witnessed feed delivery drivers trying to sell off part of the delivery for a higher price before it gets to its intended recipient. Interruptions in feed deliveries can be disastrous for a grower, and can result in sick or dead birds.

15. I've also known chicken companies to engage in downright fraud against growers, including myself. In 2009, I caught my company manipulating the scales they used to weigh my birds, cheating me out of thousands of dollars. I was a strong performer that raised healthy chickens, yet I was consistently finding myself at the bottom of rankings. This made no sense to me, and I asked the company if I could witness my birds getting weighed (which was my right per our contract). They refused. I ended up setting a camera up several hundred yards away from the scales on public property across the street from the facility to see what was going on.

16. When birds are trucked to the processing facility for weighing, the entire truck is driven onto the scale. The company then subtracts the known truck weight to get the flock weight. After weighing, the chicken cages are then removed from the truck with a forklift-like

device. I have video of them using the forklift to lift up the back of the truck during the weighing of my birds, so that it registered as much lighter than it really was. Generally, growers have no way of knowing whether they are subject to these fraudulent weighing practices. They just get a ticket in the mail telling them how much they're getting for their flock, without any way to contest the company's decision.

17. I am not alone in these experiences. I regularly speak with members of the Association that report experiencing these and other abusive practices, which are common across the poultry industry. But it's nearly impossible to stand up for your rights when you're up against such powerful corporations, and the price you pay for speaking out can be financial disaster. For instance, several years ago, I asked an Association member to accompany me on a trip to Washington D.C. to speak with a congressional representative about these issues. The chicken company found out and told his wife that he had no business going to D.C. This grower then spent years on the bottom of his local tournament rankings after that. We thought it was our right to talk to our representatives. Clearly, the chicken companies think otherwise. Were our members to come forward personally in this legal proceeding, they would almost certainly be subject to the same kind of retaliation, or worse.

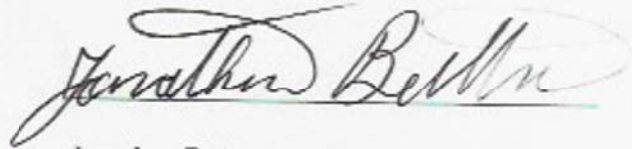
18. The livelihoods and economic opportunities of the Association's members depend on being able to run their businesses free of the discrimination, retaliation, and deception prohibited by the Rule and upon effective enforcement of the Packers and Stockyards Act. The Rule at issue in this case provides critical safeguards against the retaliatory and deceptive practices our members regularly face. It spells out exactly what conduct is illegal under the Packers and Stockyards Act—including practices that chicken companies have been engaging in for years—and therefore makes it easier for a poultry grower to benefit from the law's

protections. It also prohibits chicken companies from discriminating against growers based on their participation in a growers' association, which directly protects and helps advance the Association's efforts to represent our members' interests.

19. The Association and its members would suffer significant harm if the Rule was vacated as a result of this litigation. The Association strongly believes the only way it can adequately protect its members' interests that are at stake in this action is by intervening in defense of the Rule.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 31, 2025 in Geraldine, AL

A handwritten signature in black ink, appearing to read "Jonathan Buttram", is written over a light blue horizontal line.

Jonathan Buttram